

REMARKS

Claims 1-5, 7-8, 11-13, 18-19, 21 and 23 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 5,125,893 (“Dryden”). Claims 9, 10 and 24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Dryden in view of U.S. Patent 6,375,637 (“Campbell”). Claims 14-17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Dryden. With this amendment, independent claims 1 and 18 have been amended to further clarify the invention. Support for this amendment may be found in United States Patent Application, Publication No. US 2005/0165364, which publication corresponds to the instant application. Exemplary support for this amendment may be found in paragraphs 24-25 of said publication. No new matter has been added. Claims 1-5, 7-19, 21 and 23-24 are currently pending in the instant application.

Claim Rejections Under 35 U.S.C. § 102(b)

On page 4 of the Final Office Action, the Examiner rejected claims 1-5, 7-8, 11-13, 18-19, 21 and 23 under U.S.C. § 102(b) as being anticipated by Dryden. Without conceding the Examiner’s assertions of anticipation, Applicants have amended independent claims 1 and 18 to include an overpressure control element “wherein the overpressure control element comprises an extension tube connected to the attachment portion, and is adapted to burst when the pressure within the connector exceeds the predetermined threshold level,” and further comprising “a fluid capture jacket disposed around said overpressure control element and adapted to collect fluid spilled from a rupture in said overpressure control element; and a space between said fluid capture jacket and said overpressure control element.”

Regarding independent claims 1 and 18, it is submitted that Dryden does not anticipate the currently pending claims. “A claim is anticipated only if each and every element set forth in

the claim is found, either expressly or inherently described in a single prior art reference.” *See* MPEP § 2131; *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

The Examiner stated that Dryden discloses a catheter system as currently claimed. It is respectfully submitted however, that Dryden does not disclose such a system. Rather Claims 1 and 18 have been amended to be directed, in part, to a catheter system comprising an overpressure control element “wherein the overpressure control element comprises an extension tube connected to the attachment portion, and is adapted to burst when the pressure within the connector exceeds the predetermined threshold level,” and further comprising “a fluid capture jacket disposed around said overpressure control element and adapted to collect fluid spilled from a rupture in said overpressure control element; and a space between said fluid capture jacket and said overpressure control element.” Such limitations are not set forth in Dryden.

On page 2 of the Office Action, the Examiner stated that Dryden discloses an extension tube connected to the first end of the overpressure control element. Without conceding the Examiner’s assertion that the tubes disclosed in Dryden comprise extension tubes as claimed in the present invention, Applicant respectfully points out that Dryden does not disclose an extension tube adapted to burst when the pressure within the connector exceeds the predetermined threshold level. Dryden also does not disclose a fluid capture jacket disposed around the overpressure control element and a space between the fluid capture jacket and the overpressure control element. In fact, these elements are incompatible with the invention of Dryden. First, the tube connected to the overpressure control element 36 of Dryden is intended to transmit suction from suction machine 13 of Dryden, so the pressure within the system could never exceed a threshold pressure, and a fluid capture jacket disposed around such a tube would

be superfluous, as no fluid flow flows through the tube connected to overpressure control element 36 of Dryden. Second, the tubes in Dryden connected to overpressure control elements 35, 36 are not intended to burst in response to internal pressures in excess of a previously determined pressure threshold, so the addition of fluid capture jackets around such tubes would serve no purpose.

As a result, all of the elements of the claims are not found in Dryden, and a proper case of anticipation has not been set forth for the currently amended claims. Since all of the limitations of the independent claims are not found in the reference, the same holds true for the claims that depend therefrom, therefore, these claims are not anticipated either.

From the foregoing, the Examiner's rejections under 35 U.S.C. § 102(b) of claims 1-5, 7-8, 11-13, 18-19, 21 and 23 are believed to be overcome. It is, therefore, respectfully requested that the Examiner withdraw these rejections.

Claim Rejections Under 35 U.S.C. § 103(a)

On page 6 of the Office Action, the Examiner rejected claims 9-10, and 24 under 35 U.S.C. § 103(a) as being unpatentable over Dryden, in view of Campbell. On page 7 of the Office Action, the Examiner rejected claims 14-17 under 35 U.S.C. § 103(a) as being unpatentable over Dryden. With this Amendment, independent claims 1 and 18 have been amended to include limitations as discussed above not taught by either Dryden or Campbell.

With regard to the rejection of claims 9, 10 and 24, each of these claims depend directly or indirectly from independent claims 1 or 18. As discussed above, claims 1 and 18 have been amended to be directed, in part, to a catheter system comprising a pressure control element "wherein the overpressure control element comprises an extension tube connected to the attachment portion, and is adapted to burst when the pressure within the connector exceeds the

predetermined threshold level,” and further comprising “a fluid capture jacket disposed around said overpressure control element and adapted to collect fluid spilled from a rupture in said overpressure control element; and a space between said fluid capture jacket and said overpressure control element.”

Neither Dryden nor Campbell disclose all of (i) the extension tube adapted to burst, (ii) the fluid capture jacket, and (iii) the space between the extension tube and the fluid capture jacket. As discussed above, these elements are incompatible with the invention of Dryden. This combination of elements is also incompatible with the invention of Campbell, because the jacket 31 serves the function of providing a stop against the proximal end 21 of balloon 10; the proximal end 21 of balloon 10 is in contact with the catheter shaft 20. In order to serve its intended function of stopping the proximal end of 21, jacket 31 must also be in contact with the catheter shaft.

As a result, all of the elements of the claims are not found in the publications cited by the Examiner, and a prima facie case of obviousness has not been set forth for the currently amended claims or the claims that depend therefrom.

In view of the foregoing, the Examiner’s rejections under 35 U.S.C. § 103(a) of claims 9, 10 and 24 are believed to be overcome. It is, therefore, respectfully requested that the Examiner withdraw this rejection.

CONCLUSION

From the foregoing, further and favorable action in the form of a Notice of Allowance is believed to be next in order and such action is respectfully requested.

In the event that there are any questions relating to this Amendment or to the application in general, it would be appreciated if the Examiner would contact Dhruv Kaushal by telephone at (202) 373-6000 so that prosecution of the application may be expedited.

The Director is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 50-4047 (7061822001).

Respectfully submitted,

BINGHAM MCCUTCHEN, LLP

Date: November 8, 2010

By: 

Dhruv Kaushal
Registration No. 67,340

BINGHAM MCCUTCHEN, LLP
2020 K Street, NW
Washington, DC 20006
Telephone: (202) 373-6000
Facsimile: (202) 373-6001